

**MINUTES FOR REGULAR MEETING
OLDHAM COUNTY
BOARD OF ADJUSTMENTS AND APPEALS**

Thursday, January 16, 2014

At 9:00 a.m., local time, on the above date, this meeting of the Oldham County Board of Adjustments and Appeals, hereinafter, called the Board, was called to order in the Courtroom of the Oldham County Fiscal Court, LaGrange, Kentucky, by Chairperson Larry Otterback.

The following members were present:

Ken Hodge
Robert Houchens
Larry Otterback
Ann Riley
Roger Wampler

Director Jim Urban and Community Planner Amy Alvey of Oldham County Planning and Development Services were present and sworn in. Also present was Administrative Assistant Ethel Foxx of Oldham County Planning and Development Services and Board Attorney Travis Combs.

Board Member Riley called and read Docket OC-13-022:

Docket OC-13-022 –An application has been filed requesting a Conditional Use Permit to have an off premises sign on the property located at 7408 Highway 329, Crestwood.

Motion to take Docket OC-13-022 off the table was made by Board Member Houchens and seconded by Board Member Hodge.

Motion passed by unanimous voice vote.

(1) Presentation by Staff:

Community Planner Amy Alvey presented the following:

- Summary of the application.
- Case History (see Staff Report dated January 16, 2014 (Exhibit A).
- Notes.

Ms. Alvey responded to questions from the Board:

- The smaller sign is part of the 48 square feet.
- Pointed out the proposed location of the sign.
- There are no regulations related to the proximity of signage from one sign to the other.
There are no lighting standards, however, the sign permit will be reviewed and approved at staff level.

(2) Presentation by the Applicant in support of the application:

Beach Craigmyle, Attorney, 105 South First Street, LaGrange, was present to speak on behalf of Brownsboro Woods, LLC.

- Applicant is Brownsboro Woods, LLC .
- Presented a photo of the apartments (Exhibit B).
- Interested parties are unable to find the property being the reason the off-premises sign is requested.
- Presented site drawings (Exhibits C, D, E) showing where the apartments are located..
- Because the apartments are out of site, it is hard to determine their location.
- Some of the apartments are already rented but it is difficult to find them.

Steve Moss, 4112 Myers Avenue, Crestwood was present and sworn prior to speaking on behalf of this application.

- The apartments are up on a hill and not visible from Highway 329 because of the trees and other buildings.
- Needs a sign by the road for directional purposes as have received many calls as to the location of the apartments.
- Is the managing member of Brownsboro LLC and received permission from Apple Patch Community for placement of the sign.

Joe Spoelker, Apple Patch, 7408 Highway 329, Crestwood, was present and sworn prior to speaking on behalf of this application.

- Is the Director of Community Affairs and representative for Apple Patch, owner of the property on which applicant wishes to place the sign.

(3) Questioning of the Applicant or representative and others in support of the application by the Board:

Mr. Spoelker responded to questions by the Board:

- Has authorized Steve Moss to place the off-premises sign on their property.
- Confirmed that Apple Patch owns the property.
- Confirmed he is the Director of Community Affairs of Apple Patch.
- There is a sign for the cottage homes in the same area; Planning and Zoning approved that sign and was recently installed.
- The cottage homes sign is taller but not as wide as the one proposed; there is no lighting and is a two-sided sign.
- The signs will be 15 feet apart and both will have adequate visibility from the road.

Mr. Moss responded to questions by the Board:

- Built and developed the project and is involved in management of Brownsboro Woods.
- There is no lighting proposed for the sign as there is a street light at the entrance.
- To his knowledge the sign meets all the requirements for off-premises signs.
- Brownsboro Woods LLC will be responsible for maintaining the sign.
- There are no other signs for the apartments.

(4) Testimony of the Opposition: NONE

(5) Questioning of the Opposition by the Board: NONE

(6) Rebuttal and Final Statement by the Applicant: NONE

(7) Rebuttal and Final Statement by the Opposition: NONE

(8) Board Discussion and Final Decision

Findings and Decisions
Docket OC-13-022
Conditional Use Permit – Off-Premises Sign

Motion is made by Board Member Houchens and seconded by Board Member Hodge to approve Docket OC-13-022, conditional use for an off-premises sign because:

1. The proposed use is essential or desirable to the community.
2. The proposed use is not in conflict with the elements, objectives and policies of the Comprehensive Plan.
3. The community has a need for the proposed use and there are potential benefits to the community.

Conditions of Approval:

- (1) The conditional use permit shall only apply to the application considered at the January 16, 2014 Oldham County Board of Adjustments public hearing.

The vote was as follows:

Yes: Board Members Houchens, Wampler, Riley, Otterback and Hodge
No: None
Abstain: None.
Absent: None

Motion carried on a vote of 5-0.

Board Member Riley called and read Docket OC-13-023:

Docket OC-13-023 – An application has been filed requesting a Road Frontage Variance for proposed tracts located at 3801 Rose Lane, Crestwood.

Motion was made by Member Hodge and seconded by Board Member Riley, to take Docket OC-13-023 off the table.

Motion passed by unanimous voice vote.

(1) Presentation by Staff:

Community Planner Amy Alvey presented the following:

- Summary of the application.
- Case History (see Staff Report dated January 16, 2014 (Exhibit A).
- Notes.
- Photos of site
- Part of the property is located in Shelby County.
- Showed where there is an existing 30 foot wide easement to the right-of-way and a 16 foot easement passage to access the property.

(2) Presentation by the Applicant in support of the application:

Paul Baker, Attorney, 500 West Jefferson Street, Suite 2100, Louisville, was present to speak on behalf of Rose Lane Farm, LLC.

- Confirmed that Applicant wishes to divide the 130 acres.
- Because there is no existing road frontage is in need of a variance.

Wayne Mortensen, 11204 Bodley Drive, Anchorage, was present and sworn prior to speaking on behalf of this application.

- Confirmed that he wishes to divide a 130 acre farm into two tracts 80 acres and 50 acres, which would have no road frontage.
- The smaller tract will have 300 feet of frontage to the private road.

(3) Questioning of the Applicant or representative and others in support of the application by the Board:

Mr. Mortensen responded to questions by the Board:

- Presently, all the property is being farmed by his nephew.
- The only building on the 50 acre tract is a tobacco barn.
- The remaining property was a dairy farm and has five or six buildings on the property.
- His children are not interested in the farm, and he no longer wishes to farm the property, however, his nephew wishes to continue farming the property.

(4) Testimony of the Opposition: NONE

(5) Questioning of the Opposition by the Board: NONE

(6) Rebuttal and Final Statement by the Applicant: NONE

(7) Rebuttal and Final Statement by the Opposition: NONE

(8) Board Discussion and Final Decision

**Findings and Decisions
Docket OC-13-023
Road Frontage Variance**

Motion is made by Board Member Hodge and seconded by Board Member Wampler, to approve a road frontage variance for Docket OC-13-023 because:

1. The variance will not adversely affect the public health, safety or welfare.
2. Will not alter the essential character of the general vicinity.
3. Will not cause a hazard or nuisance to the public.
4. Will not allow an unreasonable circumvention of the requirements of the zoning regulations.
5. It currently does not meet the 300 foot requirement and will not change that status.

Conditions of Approval:

- The variance shall only apply to the plan considered at the January 16, 2014 Oldham County Board of Adjustments public hearing.

The vote was as follows:

Yes: Board Members Hodge, Wampler, Houchens, Riley and Otterback

No: None

Abstain: None.

Absent: None

Motion carried on a vote of 5-0.

Board Member Riley called and read Docket OC-14-001:

Docket OC-14-001 – An application has been filed requesting a Road Frontage Variance for proposed tract located at 2908 N. Highway 53, LaGrange.

(1) Presentation by Staff:

Community Planner Amy Alvey presented the following:

- Summary of the application.
- Case History (see Staff Report dated January 16, 2014 (Exhibit A).
- Notes.
- Photos of site.

Ms. Alvey responded to questions from the Board:

- Applicant owns Tract 2 shown on the site plan.
- The request is to allow the applicant to move forward with estate planning.
- The existing access easement varies from 50 feet to 60 feet wide.

(2) Presentation by the Applicant in support of the application:

Mary Broecker, 208 North Highway 53, LaGrange was present and sworn prior to speaking on behalf of this application.

- Feels that Ms. Alvey has represented what she needs to do.

Albert Harrison, 114 McMakin Manor, LaGrange, was present and sworn prior to speaking on behalf of this application.

- Gave history as to how the property was acquired since 1964.
- In 1994 acquired a 63 acre tract having an access easement.
- Presented aerial photos on the overhead (Exhibit B) of property.
- Explained how access easement was created.
- Property is a working farm and the front part is used for cattle and crops or hay in the back.
- Showed location of house, pond and barn and showed the residual tract having a 50 foot easement and it has limited road frontage.
- There are two working farms and one is owned by Mary Broecker, and the other owned by Kurt and Mary Broecker.
- Showed how the property is to be divided due to the location of the house, barn and pond.

- The only logical thing to do as far as the easement is concerned is to take the existing access easement from the 2 acre lot conveyed to their son and extend to the property to show that it has access.
- There are no plans for developing this property.

(3) Questioning of the Applicant or representative and others in support of the application by the Board:

Mrs. Broecker responded to questions from the Board:

- She and her husband wish to put the property in a gift trust for estate planning.
- There are no plans to develop the property.
- The property is to stay in the family.
- Confirmed that she is aware of the requirement that only three tracts are allowed to use the access easement.

Mr. Harrison responded to questions from the Board:

- Showed the common driveway at Highway 53 and how it continues to TK and Shari Broecker’s property.
- Showed the easement and how it will serve the properties.
- The 60 foot easement to access the north tract will not be constructed as there are no plans to do anything with the north tract.
- Only creating the access easement on paper and by deed so that the north tract will have access; it will continue to be a working farm.
- The survey plat will be recorded with the deed as a new easement.
- Confirmed that there is a limitation of access to three tracts of land by the easement.
- TK and Shari Broecker maintain the access easement; it is used to access the back part of the south tract.
- Confirmed that although there are two homes using that access easement, the south tract has access from Highway 53 and technically will not use that easement.

(4) Testimony of the Opposition: NONE

(5) Questioning of the Opposition by the Board: NONE

(6) Rebuttal and Final Statement by the Applicant: NONE

(7) Rebuttal and Final Statement by the Opposition: NONE

(8) Board Discussion and Final Decision

**Findings and Decisions
Docket OC-14-001
Road Frontage Variance**

Motion is made by Board Member Riley and seconded by Board Member Wampler to approve road frontage variance for Docket OC-14-001 because:

1. The variance will not adversely affect the public health, safety or welfare.
2. Will not alter the essential character of the general vicinity.
3. Will not cause a hazard or nuisance to the public.
4. Will not allow an unreasonable circumvention of the requirements of the zoning regulations.

Conditions of Approval:

- The variance shall only apply to the plan considered at the January 16, 2014 Oldham County Board of Adjustments public hearing.

The vote was as follows:

Yes: Board Members Hodge, Wampler, Houchens, Riley and Otterback
 No: None
 Abstain: None.
 Absent: None

Motion carried on a vote of 5-0.

Motion was made by Member Hodge and seconded by Member Wampler to break for a recess at 10:09 a.m.
Motion passed by unanimous voice vote.

Motion was made by Member Hodge and seconded by Member Houchens to return to session at 10:22 a.m.
Motion passed by unanimous voice vote.

Board Member Riley called and read Docket OC-14-002:

Docket OC-14-002 – An application has been filed requesting an appeal of an administrative decision concerning 4426 Glenarm Road, Crestwood

Chairperson Otterback of the Oldham County Board of Adjustments reviewed the hearing process for Appeals.

(1) Presentation by the Appellants in support of the application:

Barry Baxter, Attorney, Barry, Floyd and Baxter Attorneys, 117 West Main Street, LaGrange, was present to speak on behalf of the Appellants.

- Representing the homeowners of Cole Springs Farms Subdivision.
- The subdivision consists of a few lots on Echo Valley Drive, which is the main road.
- Presented a letter from Brian Davis dated October 30, 2013, to Ashley Holden, property owner of Lots 8 and 11 as to the use of the property (Exhibit A) and is the subject matter of the this appeal.
- Presented a letter from Ms. Holden to Brian Davis dated October 29, 2013 (Exhibit B) describing how they intend to use the CO-1 portion of the property to conduct riding activities under a company called Forward Motion, Inc.
- In Brian’s letter of October 30, 2013, he responded that the riding activities described would fall under Riding Academy and Stables as a permitted use under CO-1, and a Conditional use under the R-2 Residential district; they are only allowed to operate within the CO-1 portion of the property.
- His clients do not believe that the use qualifies as a riding academy or stable; riding academies and stables is not defined and is reserved; there is no guidance found in the zoning ordinance.

- A booklet was presented as to what Forward Motion does including information from the internet which references the activities (Exhibit C).
- Presented(Exhibit D) a plot plan showing Lots 8 and 11 which shows the CO-1 portion in black.
- Filed the Articles of Incorporation for the original corporation called Halter, Inc. which describes that the purpose is for charitable services for children having serious illness (Exhibit E).
- The corporation was amended and is now called Forward Motion, Inc.
- Explained the purpose of Forward Motion and there is no reference to a riding academy or stable, but talks about something like a therapeutic health service.
- Filed several documents including what Hippo therapy is about along with the type insurance they accept (Exhibit F).
- Clients are requesting interpretation as to exactly what this facility is as it appears that this use provides therapeutic health services.
- There is commercial activity however, they did apply for a residential road encroachment permit.
- There is much confusion as to what is going to happen on the property.
- Clients have secured a few maps from different departments that do not really determine where the CO-1 zoning is located.
- Need specific information as to where the activities are permitted, where parking trailers will be allowed, riding, teaching and any activity associated with this will take place.
- The property is at the end of Echo Valley Drive which is less than 18 feet wide and qualifies as an alley and not built to County specifications; there is a cul-de-sac at the end which is not built to County specifications.
- Questions as to what constitutes a riding academy or stable; where is the CO-1 zoning on the property and is this a medical facility?
- With the changes in the area, will this become a commercial rather than a residential area.
- Concerns as to the volume of the operation.

The following were present and sworn prior to speaking in favor of the Appellant:

Karen Beltle, 4622 Echo Valley Drive, Crestwood, was present and sworn prior to speaking on behalf of the appeal:

- Has been in the horse industry for years and also in competition along with her son, and has never had prescriptions for riding lessons.
- Does not believe this is a riding academy by any definition that she knows, but a medical facility promoting horseback riding for children and adults with medical disabilities which is being billed through insurance companies.
- It is a medical facility and promoting horseback riding for therapeutic treatment for children and adults.
- Is not appropriate for the lots as it changes the character of the area; it becomes commercial rather than a residential area.

Thomas Engle, 4746 Echo Valley Drive, Crestwood, was present and sworn prior to speaking on behalf of the Appellants:

- Property value is very important to him.
- The road is very narrow and if this becomes a business, property values may go down.
- His wife is very ill and if something happens to him, there are no children and no one to help take care of her.
- It is important that property values not go down as it could be hurtful to his wife where she may not have a quality of life.

Dan Hasz, 4628 Echo Valley Drive, Crestwood, was present and sworn prior to speaking on behalf of the Appellants:

- Lives across from the subject property.

- Is a quiet neighborhood but the street is so narrow that it is hard for vehicles to pass.
- Asking for assurance of protection that this property not change their way of life.

Cheryl Aubrey, 4601 Echo Valley Drive, Crestwood, was present and sworn prior to speaking on behalf of the Appellants.

- The road is very narrow and two cars cannot pass.
- Do not object to this type facility, but this is not the right location for it.
- There are only seven homes on the road and that road that cannot support a riding academy.

Barry Wilding, 4634 Echo Valley Drive, Crestwood, was present and sworn prior to speaking on behalf of the Appellants.

- Concerned that if the use is allowed that there is nothing the neighbors can do, and no way they can be protected.
- If the business grows like Greenhill, there would be thousands of cars on a country road that is not wide enough.
- Greenhill has added staff and clients and this road cannot handle that much traffic.

Others present to speak in favor of the Appellant:

Alan Kaelin, 4501 Glenarm Road, Crestwood, was present and sworn prior to speaking on behalf of the Appellants:

- Lives across the street from the subject property.
- The end of Echo Valley is a wooded area and deceptive as vehicles try to come out of the road.
- There is a wide entrance but there is a site distance problem especially if one is pulling a trailer.

At this time, Attorney Baxter informed the Board that Mr. Kaelin is not his client although he spoke in favor of the Appellants.

(3) Questioning of the Appellant or representative and others in support of the application by the Board:

Attorney Baxter responded to questions by the Board as follows:

- Confirmed that under Exhibit G, Section 030-020, riding stables is a permitted use.
- As to Exhibit H, Section 060-020, confirmed that the property is split into two pieces zoned CO-1 and R-2.
- The property is split into two pieces and could apply under 060-030 to have the rest of it designated as a riding academy or stable.
- The issue is whether this is a health care facility that could be covered by insurance.
- On the internet, in his estimation, it is more in the mode of providing health care and therapeutic services rather than a riding stable and could be covered by health insurance.
- His interpretation is that this is more of a health care facility as opposed to a riding academy.
- If the Board makes a determination that this is a riding academy or stable, would seem the Zoning Ordinance is without definition as to what activity is to be conducted appropriately on the property.
- Does not agree that this is a riding academy or stable and looking for some type of clarification.
- They could file an application for a Conditional Use under R-2 zoning and there is no application pending.

Board Attorney Travis Combs stated that this Board is not in a position, nor has the authority to decide the zoning of this property.

Attorney Baxter continues response to the Board:

- Agrees that a portion of the property is zoned CO-1 and a portion R-2.
- Clients are seeking clarification as to exactly where those zoning areas are located.
- Brian's letter states the riding academy can be operated in the CO-1 portion of the property.
- There is confusion that this is based on the official zoning map
- Clients did research and found seven different maps and whether something is occurring in the R-2 portion that is inappropriate.

Board Attorney Combs stated that the Board needs rely on what the staff has labeled is accurate regarding zoning.

Administrator Urban stated that the Board needs to deal with the first issue which is the appeal, and if it is determined that it is not a riding academy and stable, the zoning issue goes away.

Board Member Hodge discusses the basis of the Appeal:

- Brian's letter discusses two things, riding activities which fall under riding academy or stable.
- The Board is not granting permission or authorization of use, it is only a statement.
- The question is, whether Forward Motion is permitted to conduct activities on the property
- The question is what the specific impact on the neighbors is and as a result of Brian's letter what hardships have they experienced.

Attorney Baxter responded to Member Hodge:

- There has not been an impact at this point but dealing with what the scope of this will be.
- No information out there, but to look at similar situations.
- Included information about Greenhill, a similar facility, the volume of people, number of staff, a riding academy, overhead lights; his clients are concerned and think the worst.
- This got started after the Holdens received a letter stating they have violated the deed restrictions and did hear from their attorney.

(4) Presentation by the Respondent

Brian Davis, Assistant Director, Oldham County Planning Development, spoke on behalf of the Respondent as follows:

- Responded as to his understanding of his letter.
- Had number of meetings due to zoning map issue.
- Met with Mrs. Holden and the neighborhood representatives.
- Mrs. Holden had a small number of clients and gave instructions on site in a small enclosed area; there is one horse and one mule and she uses the horse on site for riding lessons
- No one brings horses to the property.
- Referred to the Official Zoning Map and tried to get the most accurate reading for the CO-1 zoning for that portion of the property.

Respondent, Ashley Bowles Holden, 4426 Glenarm Road, Crestwood, was present and sworn prior to speaking regarding Docket OC-14-002.

- Gave a definition and background as an occupational therapist.
- Full time job at Springhurst Health and Rehab.
- Is a registered therapeutic riding instructor through PATH Professional Association of Therapeutic Horseback Riding formerly known as NARHA.

- Forward Motion is non-profit and presented a description of therapeutic riding.
- Do not have to be a healthcare professional to give therapeutic lessons.
- Is not asking to provide other services that Forward Motion can provide as the property is not zoned for that.
- Cannot be considered health care just because the children have disabilities.
- Services provided are no different than a riding lesson.
- At the end of the cul-de-sac Wilding Industries has a business and there are other companies on that road.
- Does not charge for the sessions.
- Is also concerned with property values and the road.
- Only gives lessons when weather is good as her clients are very fragile and cannot handle the hot or the cold.
- Is a hobby for her and has five clients a week, Wednesday for 2-1/2 hours and Thursday afternoons for 1-1/2 hours.
- Never a group session, just one client at a time, has two volunteers there to assist her.

Mr. Davis continued his presentation:

- Has been in planning for 14 years, and with Oldham County government for 6 years.
- Makes several interpretations on a daily basis, based on rules of the Zoning Ordinance.
- When speaking with the Holdens never considered the proposed use as anything other than a riding academy and stable permitted in a CO-1 District.
- Agrees with Attorney Baxter that there is no definition in the regulations for riding academies.
- Researched other jurisdictions and also the Publication of the American Planning Association and found on Page 214 of the Planners Dictionary stating a definition for a healthcare facility; our regulations do not have a definition but this was used by Mr. Baxter.
- Gave description of healthcare facility including the variety of facilities, and stated a definition for riding academy on page 340 of the Garret, Indiana definition.
- They do have a definition for hospitals and institutions which has been identified in the appeal packet.

Referred to exhibits from the appeal packet:

- Exhibit F showed a number of facilities listed on the PATH website – including Forward Motion, Inc.
- Researched on the internet and none of those are zoned commercially, but tend to be in agricultural or residential zoning classification.
- Exhibit J – stating Forward Motion is listed as a hospital but a number of those not considered a hospital facility (106 stated in the website) including Apple Patch, Rite Aid and Walgreens, etc.
- Exhibit M,N,O,P presented and a photo of a facility at the entrance to a subdivision which includes the rural nature and one not even know a business is there and is zoned R-1 Residential in the Louisville Metro area and down-zoned from R-4; the primary academy is zoned residential.
- Referred to Exhibit Q showing 10 entries listed as reserved, however, of interest, if activities are located in CO-1 as a permitted use would only come into play if one were requesting a conditional use.
- Read Agricultural definitions under KRS 100.111.
- From a professional standpoint the definition in the Oldham County Zoning Ordinance, it is forbidden by KRS to place zoning restrictions on Agricultural uses.
- Photos presented of Baptist Hospital in LaGrange on New Moody Lane which he definitely considers a health care facility.
- Photo of subject property presented and there is no way one would consider this as a health care facility.

Referred to the Oldham County Comprehensive Plan approved recently by all four legislative bodies, with zoning authority which includes Land Use 4 (LU4) from the Brownsboro Master Plan approved in 2009, states “Perpetuate farming, equine and other uses compatible with the rural nature of the Brownsboro Planning Area”, and the subject parcel is in the Brownsboro Planning Area.

(5) Questioning of the Respondent by the Board:

Mr. Davis responded to questions from the Board:

- The intent of the letter was based on the information received from the Holdens.
- Never contemplated what benefits there would be and felt best that this fall under riding academy and stables.
- Confirmed that this is a permitted use in CO-1.
- The letter did show the attached drawing that showed the boundaries of CO-1.
- Showed where Echo Valley Drive is contained in the CO-1 area, and the outside is R-2 and this is from the Official Zoning Map.
- At first, the office did give Mrs. Holden an application for a conditional use permit, however, in checking the zoning closer, staff felt that a conditional use was not needed.

Mrs. Holden responded to the Board as follows:

- Feels that the activity of riding lessons definitely falls under Riding Academy; they are therapeutic lessons, not HIPPO therapy or a health care service.
- Feels there are limitations and has no intentions to do anything not permitted in that zoning area.
- Has three riders on Wednesday night a total of 2-1/2 hours; on Thursdays have a brother and sister that come in the same car and split the 1-1/2 hour lesson.

The following were present to speak in favor of the Respondent:

Micheleen Skull, 4615 Echo Valley Drive, Crestwood, was present and sworn prior to speaking on behalf of the Respondent.

- Shares the fence line with the Holdens who are very concerned with property values.
- Before the Holdens moved in, the property was overgrown; there was garbage, trash, an old fence and barbed wire.
- They have cleaned up the property and improved the value of the land.
- Mrs. Holden has been very open and told her what she was planning to do; they have had many conversations and she informed Mrs. Holden that she has no concerns regarding the proposal.
- They are wonderful neighbors, take good care of their horses and property although they do not reside there,
- She has not seen increase in traffic or parking issues and rarely sees the children that come to the site.

William Holden, owns property at 4426 Glenarm Road, Crestwood, was sworn prior to speaking on behalf of the Respondent:

- He is Ashley Holden's husband.
- Agreed with Board Member Hodge about using the entrance on Glenarm rather than using Echo Valley Drive.
- He would rather use Glenarm Road but the Deed Restrictions state that one cannot have a driveway at the front and put another driveway behind it.
- He is willing to work with them as Glenarm would be safer and a better solution.

Chairman Otterback reminded those present that the docket before them today is the Administration decision regarding the riding stable vs. a medical facility.

(6) Rebuttal and Final Statement by the Appellant:

Attorney Baxter stated as follows:

- Represents the neighbors of Cole Springs and was not his intention to offend Brian Davis.
- For the record, has always found Brian agreeable and cooperative and is not accusing him of anything.
- Per KRS 100.257 it requires that if one believes there is an Administrative decision he is required to appeal that decision and is bound by it.
- Have a letter from Mrs. Holden that she would be operating Forward Motion Inc. on the property and Brian writes a letter that the activities are permitted on the CO-1 portion of the property.
- A question was raised for that reason and they followed the law; wrote Brian asking for clarification including regarding an appeal but did not hear anything except to file an application per Administrator Urban.
- The objective information they have about Forward Motion Inc. is that indicates it is engaging in health related services.
- Things one can find on the internet, Facebook, listings under professional services and indicates that Forward Motion is a company that relates to health related services.
- Clients are concerned that this will be more than a riding academy or stable as it looks like there could be something else.
- Have no idea what the scope of the facility will be and the Board has nothing to do with the definition of a riding academy or stable and naturally raises a question for them.
- It is clear from Brian's letter, if this is a riding academy allowed in CO-1 zone, that is the only place it can happen and his clients would like to know where that is.

(7) Questioning of the Respondent by the Board:

- Mrs. Holden responded to the Board that she cannot bill insurance for therapeutic riding as it is not a health service.
- She does not provide medical care; the only thing she does is a path certified therapeutic riding instructor and not any type of occupational therapy services.

(8) Board Discussion and Final Decision:

- Brian Davis made an administrative decision with the letter of October 30, 2013, and can understand why the neighbors made their decision to appeal.
- Riding Academies and Stables is a permitted use in CO-1 and also permitted as a conditional use in R-2.
- Hippo therapy is a great health related benefit but the definition under the guidelines is hospital or institutions and feel that it is neither; that it is a service
- In terms of Brian's decision it could be both a riding activity and health related.
- Brian made the decision that was most appropriate and that is the only thing the Board can consider.
- Would like to have seen a conditional use hearing as suggested.
- In speaking to the appellants there are other questions that are unanswered.
- There is a fiduciary responsibility to try get to a resolution.
- The riding stable is a permitted use in CO-1; there are questions as to where the CO-1 lies.
- Regardless of zoning, no matter how many there are out there, one can go to the Official Zoning book to determine the zoning.
- Can see the concerns of the neighbors and what the use could become as the street is a residential street.
- Beyond the deed restrictions the Respondent is encouraged to consider applying for a conditional use permit in the R-2 zoning area and accessing off Glenarm Road.

**Findings and Decisions
Docket OC-14-002
Appeal**

Motion is made by Board Member Houchens and seconded by Board Member Riley, to deny the Appeal, Docket OC-14-002 and find that the decision of the Administrator Officer as set out in the Administrator Officer's letter of October 30, 2013 and that the basis of the appeal was not in error.

The vote was as follows:

Yes: Board Members Riley, Houchens, Otterback, Hodge and Wampler
No: None
Abstain: None.
Absent: None

Motion carried on a vote of 5-0.

Motion was made by Member Hodge and seconded by Member Wampler to take a recess at 12:04 p.m. Vote passed by unanimous voice vote.

Motion was made by Board Member Hodge and seconded by Board Member Houchens to return to session at 12:11 p.m. Vote passed by unanimous voice vote.

**CONDITIONAL USE PERMIT REVOCATION HEARING
9051 West Highway 42, Goshen
May 16, 2013 Meeting**

(1) Presentation by Staff:

Assistant Director Brian Davis presented the following:

- Summary of the application.
- Case History (see Staff Report dated January 16, 2014 Exhibit A).
- Notes.
- Photo of Site Map showing layout of property (Exhibit B).
- Photos presented of the property (Exhibit C).

Mr. Davis responded to questions from the Board:

- Spoke with Mr. Zeppa on the phone and also sent him a copy of the staff report presented to the Board today.
- He did not take the photos presented today; they were sent with the complaint that was received.
- The Administrator did go by the site.

Administrator Jim Urban responded to questions by the Board:

- Based on a complaint did visit the site and observed a business truck (landscape business) parked in front of the building.
- At the original hearing, there was testimony that there would be no landscaping business conducted on the property.
- He did not see any activity at the time of the visit.
- He did see a bobcat
- The size of the property is about 4 acres.
- At the time of the hearing, there was testimony by the applicant as to why they wanted to construct the accessory building prior to beginning construction of the house.
- There were questions by this Board regarding the landscaping business.

Member Hodge read a portion of the minutes that Applicant stated he was trying to sell his home and needed a building in which to store his equipment and miscellaneous items from his home. Mr. Zeppa stated at that meeting that the accessory building will be used strictly for storage; the accessory building will not be used for a business and no one will reside in the building.

(2) Questioning of the Applicant or representative and others in support of the application by the Board:

Antonio Zeppa, 3216 Crosshill Court, Prospect, was present and sworn prior to responding to questions from the Board.

- He has not been conducting landscape or any other business on the property.
- Stated the size of the property consists of four acres.
- Confirmed that the photo of the debris he presented is one that he took about May 2013 before constructing the accessory building.
- Confirmed that the house shown in the photo is the neighbor's home.
- The photo shows the pad on which he built the accessory building and also shows trees and debris that was there when he purchased the property.
- Referred of the newly constructed accessory building.
- There are four overhead doors on the accessory building.
- Confirmed that the debris shown in the photo is from his property.
- Has not yet been able to sell his home.
- The bobcat in the photo is owned by the Zeppa's Lawn Service, his son's business and they are cleaning the area.
- Debris has not been brought to his property from outside the subject property, but they did bring dirt onto his property.
- The four garage doors are much like what he has on his existing residential garage.
- The Zeppa trucks is what their employees use to transport themselves back and forth.
- As to time frame, the lawn service being provided will be a continuing service.
- The original drawing submitted in May was a rough design and did not show the four doors.

Chairperson Otterback reminded Mr. Zeppa that at the May meeting he made a point that he does not own a landscape business. The intent of the conditional use approval was that there was no business to take place on the property. They realize that he is clearing the land, but appears that Mr. Zeppa is not answering truthfully.

Mr. Zeppa continued responding to the Board:

- In regards to storage there have been times that things have been left on the property but not related to business activity.

- There are photos adjacent to his property that show trucks utilizing his space and have been for a couple of weeks.
- His son, Antonio Zeppa, who resides in Jefferson County, has the landscaping business.
- Mr. Zeppa's address is 3212 Crosshill Court.
- If someone was to look in the accessory building they would find materials that were in his garage at his home.
- The only thing they brought in was top soil.

Board Member Riley stated she passes the property several times a week. Since the hearing in May has seen Zeppa's trucks hauling debris into the property on several occasions.

Board Member Hodge stated that when you look up Zeppa's Landscaping on the Secretary of States website, it shows his address.

Mr. Zeppa continued responding to the Board:

- Confirms that he has no ownership whatsoever although his physical address is listed.
- Regarding the photo showing a large pile of mulch, he used a chipper on the trees on his lot which will be used on his property; the chips will not to be sold.
- He told his son that there should be no activity on this property and has not given him permission to conduct a business on his property.
- The accessory building was completed in August but was on a non-burn time being the reason he has not completed burning.
- He goes to the property about every other week.
- The landscaping company comes when they have time and may be the reason one sees them on the property more frequently.
- He is not sure how long it will take them to clear his property.
- He did not know that the registered address for Zeppa's Lawncare is 3216 Crosshill because they do not reside there.
- This is not his business and he has no financial involvement in the company.

(3) Testimony of the Opposition: NONE

(4) Questioning of the Opposition by the Board: NONE

(5) Rebuttal and Final Statement by the Applicant: NONE

(6) Rebuttal and Final Statement by the Opposition: NONE

(7) Board Discussion and Final Decision:

Chairperson Otterback reviewed the minutes that Mr. Zeppa wanted to build the building and use it for storage until he could construct his home on the property. The building having four bay doors does not look like a residential type building.

Member Houchens stated that at the time of the May meeting, there was a sense of urgency by Mr. Zeppa in constructing the accessory building as soon as possible. At that time, Mr. Zeppa stated that there would be no landscaping business activity on the property. It appears that a business is taking place and debris has been brought to the property. Presently it appears that they are storing equipment on his property.

Attorney Combs stated the Board may wish to table this hearing and investigate further. Need to know what is happening in the building and more information from those that know of the activities that are taking place. Mr. Zeppa's demeanor seems to be evasive and in Attorney Combs' opinion there has been a violation of the

conditions imposed. The Board is in a position to terminate the conditional use and what does that do with the building and the remaining use of the property – or take action to ensure that the property is not used in anyway commercially from this point forward, and could have monthly or weekly unannounced visits to the property to see what is being stored. If the Board feels there is enough heard today to make a decision whether there has been a violation of the use, have the right to reject or revoke the current conditional use and can even table in order to obtain more information.

Administrator Urban presented a photo taken on January 16, 2014. He took the photo in response to having received e-mail complaints. None of those complaining are present at this hearing.

Administrator Urban stated that the Planning Office receives complaints all the time and not able to camp out and watch over all of them. However, Ms. Riley drives by the property often and he could give her his cell phone number should she see something and he could visit the site immediately. There was suspicion at the May hearing and it was loud and clear and if this is going to be a continuing nuisance, it can be taken to Code Enforcement or revoke the conditional use. There are many remedies that can be taken including giving him another chance.

Board Member Hodge stated that Mr. Zeppa stated in his own testimony that there is Zeppa equipment stored in the building. He feels there is enough testimony that there is business related activity and conditions of approval have been violated. The Board approved this because of a need to store his stuff temporarily until he could sell his home. To learn that his existing home is not even on the market and seems that there is no movement to build a primary structure is a concern.

Board Member Houchens stated that he kept asking questions however, Mr. Zeppa's answers seemed evasive. As Member Hodge stated, there is not even an attempt to sell the existing house. Board Member Hodge cited KRS 100 as to what could happen when one violates the conditional use restrictions.

Board Member Wampler stated that he was part of the approval reluctantly, but today he feels the conditional use should be revoked.

Board Member Riley stated that although she made the motion in May to approve there was trepidation.

Administrator Urban responded that there would be no code enforcement should the Board decide to revoke the conditional use. If they find there were violations of the conditional use, they may revoke the conditional use and could have the building taken down. The revocation would be to remove the accessory structure.

Findings and Decisions Revocation of Conditional Use Permit

Motion is made by Board Member Houchens and seconded by Board Member Wampler, to revoke Conditional Use Permit regarding accessory structure granted May 16, 2013, by the Oldham County Board of Adjustments, on property located at 9051 West Highway 42, Goshen.

The vote was as follows:

Yes: Board Members Otterback, Hodge, Houchens, Riley and Wampler.

No: None.

Abstain: None.

Absent: None

The question was stated, vote taken and motion carried 5-0.

**Removal of Accessory Structure
Per Revocation of Conditional Use Permit**

Motion made by Board Member Hodge and seconded by Board Member Riley that as a result of the Board's decision regarding Revocation of the Conditional Use Permit granted May 16, 2013, that the building constructed as a result of that permitted use be removed from the property no later than May 31, 2014.

The vote was as follows:

- Yes: Board Members Otterback, Hodge, Houchens, Riley and Wampler.
- No: None.
- Abstain: None.
- Absent: None

The question was stated, vote taken and motion carried 5-0.

Approval of Minutes

Motion was made by Board Member Hodge and seconded by Board Member Riley to approve the minutes of December 19, 2013 as submitted and corrected.

The vote was as follows:

- Yes: Board Members Otterback, Hodge, Houchens, Riley and Wampler.
- No: None.
- Abstain: None.
- Absent: None

Motion carried on a vote of 5-0.

Other Business

Nomination of Officers – 2014

1. Motion was made by Board Member Houchens and seconded by Board Member Wampler to nominate Larry Otterback as Chairperson of the Oldham County Board of Adjustments and Appeals.

The question was stated, vote taken, and motion carried 5-0.

2. Motion was made by Board Member Otterback and seconded by Board Member Riley to nominate Ken Hodge as Vice Chairperson of the Oldham County Board of Adjustments and Appeals.
The question was stated, vote taken, and motion carried 5-0.

3. Motion was made by Board Member Wampler and seconded by Board Member Hodge to nominate Ann Riley as Secretary of the Oldham County Board of Adjustments and Appeals.

The question was stated, vote taken, and motion carried 5-0.

Motion to approve that slate of officers for 2014 was made by Board Member Hodge and seconded by Board Member Wampler.

Motion carried by unanimous voice vote.

Training Opportunities

Brian Davis reminded the Board regarding training opportunities Saturday from 9:00 am to 11:00 am in the Fiscal Court Room.

The Green Infrastructure training opportunity is scheduled Thursday, January 30th from 8:30am to 10:30 at the John Black Center.

The Comprehensive Plan Goal and Objectives has been adopted by all the legislative bodies and Planning Commission will be hearing the Plan Elements on January 28th.

Motion is made by Board Member Riley and seconded by Board Member Hodge to adjourn the meeting at 1:35 p.m. Motion carried by unanimous voice vote.

The next Regular Meeting is scheduled for Thursday, February 20, 2014, at 9:00 a.m., in the Courtroom of the Oldham County Fiscal Court Building, LaGrange, Kentucky.

Respectfully Submitted,

Ethel Foxx
Administrative Assistant

Approved:

Larry Otterback, Chairperson